



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No. 26858 of 2019

R.Gracelet

... Petitioner

Vs.

1. The District Educational Officer,
Office of the District Educational Officer,
Tirumangalam,
Madurai District.

2. The Block Educational Officer,
Madurai North Block,
Madurai District.

3. The Secretary,
Subbrayalu Memorial Middle School,
Alwarpuram, Madurai,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Na.Ka.No.791/A2/2019 dated 26.09.2019 and the Consequential impugned order in Na.Ka.No.792/A2/2019 dated 26.09.2019 on the file of the second respondent and quash the same as illegal in so far as not providing salary and other benefits for the period from 01.06.2012 to 11.07.2013 to the petitioner and consequently for a direction, directing the second respondent to provide the salary for the period from 01.06.2012 to 11.07.2013 and re-fix the scale of pay of the petitioner with all monetary benefits along with arrears.

For Petitioner

:Mr.T.Lajapathi Roy

For Respondents

:Mr.G.V.Vairam Santhosh

Addl. Govt. Pleader for R1 and R2

Mr.H.Mohamed Imran for R3

for M/s.Ajmal Associates

O R D E R

The order impugned dated 26.09.2019 rejecting the claim of the writ petitioner to regulate the period from 01.06.2012 to 11.07.2013 as duty with full salary is under challenge in the present Writ Petition.

2. The writ petitioner was appointed as Secondary Grade Teacher in a sanctioned vacancy and her appointment was approved. The allegation set out by the petitioner is that she was not



permitted to work in the School by the third respondent Management. However, the learned counsel for the third respondent states that the petitioner has not attended for duty and the Management is not responsible. However, such disputes cannot be adjudicated in the present Writ Petition, as it requires examination of documents and evidences, which is to be done before the Competent Authority. As far as the regulation of the period in which the petitioner has not worked is concerned, this Court is of the considered opinion that the period is to be regulated in accordance with the rules in force.

3. Admittedly, the petitioner has not served as a Teacher in the School from 01.06.2012 to 11.07.2013. Therefore, the principles of 'no work no pay' is to be applied. In respect of the period, in which, the petitioner is not working, the public money cannot be paid by way of salary which will result in unjust enrichment on the part of the Teacher. However, the period in which the petitioner was not attending duty is to be regulated by adjusting the eligible leave and other benefits as per the rules in force. Only if the period is regulated, the Teacher will be in a position to get all other benefits including annual increment, pensionary benefits and other terminal benefits. Therefore, the period is to be regulated by the respondents for the purpose of continuance of service. However, the petitioner is not eligible for salary for the period in which she has not served.

4. Earlier, the petitioner has filed three Writ Petitions and in all those Writ Petitions, this Court directed to consider the cases of the writ petitioner. Thus, the respondents passed the impugned order rejecting the claim of the writ petitioner to pay full salary for the period in which the petitioner has not served in the School.

5. This being the factum, the respondents are directed to regulate the period from 01.06.2012 to 11.07.2013 as per the eligibility of the writ petitioner and accordingly, pass appropriate orders as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of a copy of this order.

6. Accordingly, this Writ Petitions is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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2. The Block Educational Officer,
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Alwarpuram, Madurai,
Madurai District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-9651[F] dated 03/03/2022)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-9666[F] dated 03/03/2022)

+1 CC to M/s.SPL GP (SR-9716[F] dated 03/03/2022)

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KB(21.03.2022) 3P 7C